

**REMARKS**

The Examiner's Office Action objection to the Abstract of Applicant's patent application under M.P.E.P. §608.01(b) is respectfully traversed. Applicant has amended the Abstract, which now fully complies with the requirements set forth under M.P.E.P. §608.01(b).

The Examiner's Office Action rejection of claims 6 and 12 through 15 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention is respectfully traversed. Applicant has amended claims 6 and 12 through 15, which now fully comply with the requirements set forth under 35 U.S.C. 112, second paragraph.

The Examiner's Office Action rejection of claim 10 under 35 U.S.C. 102(b), as being anticipated by Lofgren et al., U.S. Patent No. 5,913,406, is respectfully traversed. Applicant has amended claim 10, which now fully complies with the requirements set forth under 35 U.S.C. 102(b). Lofgren, et al. show a plurality of inward projections 3 as shown in Figure 2 of Lofgren, et al. and a plurality of individual elongated protrusions in Figure 3, element 6 of Lofgren, et al. which are completely different in structure and operational result than the invention claimed by Applicant in amended claim 10. Applicant's invention provides parallel ribs that form individual parallel air channels on the inner surface directed towards the wearer that allows the air to be pulled through the top of the garment and exiting at the bottom through the fan. This is completely different in function and structure than the device shown in the Lofgren, et al. reference. To sustain a 35 U.S.C. 102(b) rejection, the Examiner must cite a reference that anticipates each and every element of the claimed

Applicant: McCarter, Walter K.

Serial No.: 10/709,432

Page 7

invention. Claim 10, now amended, recites a combination of elements not present in the reference cited by the Examiner and not suggested by any teachings in the reference. Therefore, the Examiner's rejection under 35 U.S.C. 102(b) cannot be sustained.

The Examiner's Office Action rejection of claims 1 through 15 under 35 U.S.C. 102(e), as being anticipated by Ichigaya, US 2004/0083526, is respectfully traversed. Applicant has amended independent claims 1, 10, and 11, and dependent claims 3, 4, 6, and 12 through 15 so that all of Applicant's claims now fully comply with the requirements set forth under 35 U.S.C. 102(e). The Ichigaya reference provides a plurality of spacers 20 as shown in Figures 2A and 2B of Ichigaya to ensure separation between the cloth and the wearer's body. The spacers 20 do not provide a plurality of parallel ribs that form individual air passages as required in Applicant's claims 1 through 15 as now amended. Therefore, the structure of Applicant's claimed invention and the cooling cloth shown in Ichigaya are completely different, resulting in a much more efficient air flow across the body in Applicant's claimed invention resulting in a controlled uniform air flow over most of the upper torso. To sustain a 35 U.S.C. 102(e) rejection, the Examiner must cite a reference that anticipates each and every element of the claimed invention. Claims 1 through 15, now amended, recite a combination of elements not present in the reference cited by the Examiner and not suggested by any teachings in the reference. Therefore, the Examiner's rejection under 35 U.S.C. 102(e) cannot be sustained.

Applicant: McCarter, Walter K.  
Serial No.: 10/709,432  
Page 8

If there are any additional charges, including extension of time, please bill our  
Deposit Account No. 13-1130.

Respectfully submitted,

A handwritten signature in cursive script, reading "Barry L. Haley", written over a horizontal line.

Barry L. Haley, Reg. No. 25,339  
Malin, Haley & DiMaggio, P.A.  
1936 South Andrews Ave.  
Ft. Lauderdale, Florida 33316  
Tel: (954) 763-3303